

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

-----X
UNITED STATES OF AMERICA,

Plaintiff,

-against-

MAMADOU BARRY,

Defendant.
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02 CR 0812 (NG)

ORDER

GERSHON, United States District Judge:

This case is before me on remand from the United States Court of Appeals for the Second Circuit for further proceedings in conformity with *United States v. Booker*, 543 U.S. 220 (2005), and *United States v. Crosby*, 397 F.3d 103 (2d Cir. 2005). Having reviewed the parties' submissions, I conclude that, under the circumstances existing at the time that the original sentence was imposed, the original sentence would not have been materially different had the United States Sentencing Guidelines been advisory rather than mandatory. Therefore, a resentencing is not required and will not be ordered.

SO ORDERED.

/S/
NINA GERSHON
United States District Judge

Dated: Brooklyn, New York
February 27, 2006